

9-2102-8211-3

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE COUNTY OF HENNEPIN

In the Matter of the Revenue
Recapture Appeal Hearing for
Claudene Lockridge

FINDINGS OF FACT,
CONCLUSIONS AND RECOMMENDATION

The above-entitled matter came on for hearing before Administrative Law Judge Phyllis A. Reha on September 2, 1993 at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota.

Cory Carlson, Assistant Hennepin County Attorney, appeared representing the Hennepin County Accounts Receivable Unit, A-900, 300 6th Street, Minneapolis, Minnesota 55487-0990. Claudene Lockridge, 37 Queen Avenue South, Minneapolis, Minnesota 55405, appeared representing herself.

This Report is a recommendation, not a final decision. Hennepin County will make the final decision after a review of the record which may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations contained herein. Pursuant to Minn. Stat. § 14.61, the final decision of the County shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the County. Parties should contact Janet Effler, Hennepin County Accounts Receivable, A-900, 300 South 6th Street, Minneapolis, Minnesota 55487-0090 to ascertain the procedure for filing exceptions or presenting argument.

STATEMENT OF ISSUE

The issue to be determined in this contested case proceeding is whether or not Hennepin County is entitled to recapture \$874 from the state income tax and homeowner or renter property tax refund of Claudene Lockridge.

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. Claudene Lockridge was a recipient of Aid to Families with Dependent Children (AFDC). Her social security number is 473-60-5182. She was a recipient of AFDC benefits for the period August 1, 1990 through April 1, 1991.

2. In November of 1990, Ms. Lockridge began employment with the Minneapolis Public Schools System. Ms. Lockridge reported her employment to her financial worker, who then sent her DHS Form 2120, which is a household income reporting form sent to all working clients to determine eligibility income levels. The form was sent to Ms. Lockridge in December of 1990 and was due to be filed with the County by January 8, 1991. Ms. Lockridge returned the completed form before the deadline date.

3. The form disclosed Ms. Lockridge had received her first paycheck from the Minneapolis Public School system on December 14, 1990 in the amount of \$215.70. However, because the form was returned before Ms. Lockridge received her second check for the month of December, she did not include the second paycheck dated December 28, 1990 wherein she earned \$388.26. Had the second check been included, her total income for the month of December would have exceeded the adjusted gross income for the month of December would have exceeded the adjusted gross limit for one adult and one child of \$437. Thus, she would not have been eligible to receive AFDC benefits for the month of December. The County operates on a "month-after-month" budgeting system, which means that Ms. Lockridge received her AFDC grant for December and January even though the County had not yet had an opportunity to calculate her eligibility.

4. The County sent a notice to Ms. Lockridge asking for additional information within 60 days. Ms. Lockridge failed to return the additional information as requested. On February 1, 1991, the County sent a termination notice to Ms. Lockridge for her February 1, 1991 gr

5. Because Ms. Lockridge had already received her checks for the months of December and January, the County calculated and mailed to Ms. Lockridge a Notice of Overpayment in the amount of \$874 for the period of December of 1990 through January of 1991. This Notice of Overpayment was mailed to Ms. Lockridge on May 17, 1991. Ms. Lockridge did not appeal from the Notice of Overpayment within the 30-day period provided by Minn. Stat. § 256.045, subd. 3. She did however contact her financial worker by telephone on June 6, 1991 indicating she disputed the debt.

6. On August 23, 1991, approximately six months after the request for the information, Ms. Lockridge submitted to her financial worker the necessary

paystubs to calculate her eligibility for the period of December of 1990 through January of 1991. Following recalculation, her financial worker determined the overpayment to be the same even now that her earnings were fully reported. A Notice of Overpayment was sent to Ms. Lockridge on August 23, 1991. Ms. Lockridge never appealed the second Notice of Overpayment within the appeal period permitted by statute.

7. On December 5, 1991, the County notified Ms. Lockridge that the overpayment claim had been referred to the Department of Revenue for purposes of revenue recapture pursuant to Minn. Stat. § 270A.08. Ms. Lockridge did not appeal this Notice of Revenue Recapture.

8. On June 6, 1992, the County recovered \$397 from the 1991 income tax return of Ms. Lockridge. On March 23, 1993, the County recovered \$477 from the 1992 income tax return of Ms. Lockridge.

9. On June 21, 1993, Ms. Lockridge sent a letter requesting a hearing on the issue of the overpayment determination for the overpayment period of December of 1990 through January of 1991. This letter was received by the Administrative Appeals Unit of the County on June 22, 1993.

10. On August 5, 1993, a Notice of Hearing was sent to Ms. Lockridge setting an appeal hearing for September 2, 1993. The County did not provide detailed notice of procedural rights and obligations concerning the hearing. The Administrative Law Judge brought the lack of notice of procedural rights to the attention of the parties at the hearing. Ms. Lockridge waived on the record any objection to lack of adequate notice.

11. Ms. Lockridge does not contest the receipt of wages for the month of December of 1990. However, she stated that she did not actually receive the second December paycheck until after December 31, 1990. Thus, she contends, she should not have been determined ineligible for AFDC benefits for the month of December.

12. At the hearing the County made a Motion to Dismiss the appeal of Claudene Lockridge on the basis that it was untimely.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following.

CONCLUSIONS

1. Hennepin County and the Administrative Law Judge have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50, 270A.07 and 270A.07 (1991).

2. The Notice of Hearing was not proper because it did not detail the procedural rights and obligations concerning the hearing as required by Minn.

Stat. § 270A.08 and Minn. Rule 1400.8550. However, after the Administrative Law Judge informed the parties of the inadequate notice, Ms. Lockridge waived any objection to the inadequate notice and requested that the hearing not be delayed.

3. Minn. Stat. § 270A.07 permits a claimant agency which seeks collection of debt through a set-off against a tax refund to submit to the Department of Revenue information indicating the amount of the debt and the information identifying and the debtor. The Commissioner of Revenue is then authorized to remit to the claimant agency and refund due to the debtor.

4. Minn. Stat. § 270A.03, subd. 5 defines debt as follows:

Debt means a legal obligation of a natural person to pay a
fixed

obligation to pay a claimant agency for medical care,
including hospitalization, if the debtor would have
qualified for a low-income credit equal to tax
liability pursuant to Minn. Stat. 1987, § 290.06,
subd. 3(d), clause (1) at the time when the medicare
was rendered. . . .

5. An AFDC recipient is required to report to the local or state agency all income. Income earned includes wages, salaries, commissions, tips, or profit received as an employee or self-employed person. If any amount of AFDC assistance is paid to a recipient thereof in excess of the payment due, it shall be recoverable by the local agency. Minnesota law requires a local agency to make reasonable efforts to recover overpayments made to persons no longer on assistance. Federal law requires a state or local agency to make recovery of an overpayment by the end of the quarter following the quarter in which the overpayment is first identified. Hennepin County first identified Ms. Lockridge's overpayment following the receipt of paystubs submitted by Ms. Lockridge on August 23, 1991. Action was taken by Hennepin County by the end of the quarter following the quarter in which overpayment was first identified on December 5, 1991.

6. For the period of December of 1990 through January of 1991, Ms. Lockridge's net income exceeded her standard of need and she received grant money in excess of the assistance to which she was entitled, resulting in an overpayment of \$874.

7. Ms. Lockridge owed a debt in the amount of \$874 to Hennepin County which was appropriately recovered through revenue recapture provisions in Minn. Stat. § 270A.07.

8. Ms. Lockridge failed to appeal the Notice of Overpayment within a timely manner and failed to appeal the Notice of Revenue Recapture, thus her appeal in this matter is considered untimely and it is appropriate to dismiss the appeal.

Based upon the foregoing Conclusions, the Administrative Law Judge makes

the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED: that Hennepin County DISMISS Ms. Lockridge's appeal as untimely.

Dated: October 6th, 1993.

/s/_Phyllis_A._Reha_____

PHYLLIS A. REHA
Administrative Law Judge

NOTICE

Pursuant to Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail.

Reported: taped (1 cassette)

October 6, 1993

Cory Carlson
Assistant Hennepin County Attorney
Hennepin County Accts. Receivable Unit
A-900, 300 6th Street
Minneapolis, Minnesota 55487-0990

Claudene Lockridge
37 Queen Avenue South

Minneapolis, Minnesota 55405

RE: In the Matter of the Revenue Recapture Appeal Hearing for Claudene
Lockridge; OAH Docket No. 9-2102-8211-2

Dear Parties:

Enclosed and served upon you by mail is the Administrative Law Judge's
Findings of Fact, Conclusions and Recommendation in the above-entitled
matter.

Also enclosed to Cory Carlson is the official record. Our file in this
matter
is now being closed.

Sincerely,

PHYLLIS A. REHA
Administrative Law Judge

Telephone: 612/341-7611

PAR:llc

Enclosure

STATE OF MINNESOTA)
)ss
COUNTY OF HENNEPIN)

AFFIDAVIT OF SERVICE BY U.S. MAIL

Laurie L. Clos, being first duly sworn, hereby deposes and says that on
the _____ day of

Cory Carlson
Assistant Hennepin County Attorney
Hennepin County Accts. Receivable Unit
A-900, 300 6th Street
Minneapolis, Minnesota 55487-0990

Claudene Lockridge
37 Queen Avenue South
Minneapolis, Minnesota 55405

Laurie L. Clos

Subscribed and sworn to before me
this ____ day of _____, 1993.

Notary Public